

Union Calendar No. 149

112TH CONGRESS
1ST SESSION**H. R. 1343****[Report No. 112-228, Part I]**

To return unused or reclaimed funds made available for broadband awards in the American Recovery and Reinvestment Act of 2009 to the Treasury of the United States.

IN THE HOUSE OF REPRESENTATIVES

APRIL 4, 2011

Mr. BASS of New Hampshire introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

SEPTEMBER 29, 2011

Additional sponsors: Mr. WALDEN, Mr. TERRY, Mr. GUTHRIE, Mr. ROGERS of Michigan, Mr. MURPHY of Pennsylvania, Mr. WHITFIELD, Mr. SULLIVAN, Mr. BURGESS, Mrs. BLACKBURN, Mr. BILBRAY, Mr. GINGREY of Georgia, Mr. SCALISE, Mrs. McMORRIS RODGERS, Mr. LATTI, Mr. LANCE, Mr. POMPEO, Mr. OLSON, Mr. STEARNS, Mr. HARPER, Mr. KINZINGER of Illinois, Mr. CASSIDY, Mr. SHIMKUS, Mr. BARTON of Texas, Mr. UPTON, and Mr. PITTS

SEPTEMBER 29, 2011

Reported from the Committee on Energy and Commerce with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on April 4, 2011]

SEPTEMBER 29, 2011

The Committee on Agriculture discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To return unused or reclaimed funds made available for broadband awards in the American Recovery and Reinvestment Act of 2009 to the Treasury of the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. ACCOUNTABILITY FOR BROADBAND STIMULUS**
4 **FUNDS.**

5 *(a) IN GENERAL.—Notwithstanding any other provi-*
6 *sion of law, the Administrator of the Rural Utilities Service*
7 *or the Assistant Secretary of Commerce for Communica-*
8 *tions and Information shall take prompt and appropriate*
9 *action to terminate for cause any award made under the*
10 *Broadband Initiatives Program or the Broadband Tech-*
11 *nology Opportunities Program, respectively, established*
12 *pursuant to the American Recovery and Reinvestment Act*
13 *of 2009, if the Administrator or Assistant Secretary deter-*
14 *mines that cause exists to terminate the award. Such cause*
15 *may include an insufficient level of performance, wasteful*
16 *spending, or fraudulent spending.*

17 *(b) DEOBLIGATION AND RETURN OF FUNDS TO TREAS-*
18 *URY.—*

19 *(1) DEOBLIGATION.—Upon terminating an*
20 *award under subsection (a), the Administrator or the*
21 *Assistant Secretary shall immediately deobligate an*
22 *amount equivalent to such award, less allowable costs,*
23 *to the extent funds with respect to such award are*
24 *available in the account relating to the Broadband*
25 *Initiatives Program or the Broadband Technology*

1 *Opportunities Program, respectively. If the Adminis-*
2 *trator or the Assistant Secretary subsequently recovers*
3 *any additional amounts from such award, the Ad-*
4 *ministrator or the Assistant Secretary shall deobligate*
5 *such additional amounts immediately upon receipt.*

6 (2) *RETURN TO TREASURY.—Not later than 30*
7 *days after deobligating an amount under paragraph*
8 *(1), the Administrator or the Assistant Secretary*
9 *shall, without exception, return such amount to the*
10 *general fund of the Treasury of the United States.*

11 (3) *NO EXPENDITURES DURING TERMINATION*
12 *PROCESS.—The Administrator or the Assistant Sec-*
13 *retary shall promptly pursue available corrective*
14 *measures to ensure that funds received through an*
15 *award terminated under subsection (a) are not ex-*
16 *pended during the termination process.*

17 (4) *ACCOUNTING BY AWARD RECIPIENT.—The*
18 *Administrator or the Assistant Secretary shall direct*
19 *the recipient of an award terminated under sub-*
20 *section (a) to provide to the Administrator or the As-*
21 *stant Secretary a complete and accurate accounting,*
22 *which may include an independent accounting, for*
23 *any award funds that, as of the date of termination,*
24 *the recipient has received but has not expended on al-*
25 *lowable costs.*

1 **SEC. 2. DISPOSITION OF UNUSED FUNDS.**

2 *The Administrator of the Rural Utilities Service or the*
3 *Assistant Secretary of Commerce for Communications and*
4 *Information shall return to the general fund of the Treasury*
5 *of the United States an amount equivalent to any award,*
6 *less allowable costs, made under the Broadband Initiatives*
7 *Program or the Broadband Technology Opportunities Pro-*
8 *gram, respectively, established pursuant to the American*
9 *Recovery and Reinvestment Act of 2009, if such award has*
10 *been returned to the Administrator or Assistant Secretary*
11 *or disclaimed by the award recipient at any time after the*
12 *date of enactment of such Act.*

13 **SEC. 3. OVERSIGHT AND REPORTING REQUIREMENTS.**

14 *(a) ACTION ON INFORMATION FROM OIG OR GAO.—*
15 *If the Administrator of the Rural Utilities Service or the*
16 *Assistant Secretary of Commerce for Communications and*
17 *Information receives information from an official described*
18 *in subsection (b) with respect to an award made under the*
19 *Broadband Initiatives Program or the Broadband Tech-*
20 *nology Opportunities Program, respectively, established*
21 *pursuant to the American Recovery and Reinvestment Act*
22 *of 2009, and such information pertains to material non-*
23 *compliance with the award terms or provisions or improper*
24 *usage of award funds, the Administrator or the Assistant*
25 *Secretary shall—*

26 *(1) immediately review such information; and*

1 (2) *not later than 30 days after receiving such*
2 *information, determine whether cause exists to termi-*
3 *nate such award under section 1(a), unless the official*
4 *who provided such information recommends that the*
5 *Administrator or the Assistant Secretary limit or not*
6 *make such a determination.*

7 **(b) OFFICIALS DESCRIBED.**—*The officials described in*
8 *this subsection are the following:*

9 (1) *With respect to the Broadband Initiatives*
10 *Program, the Inspector General of the Department of*
11 *Agriculture.*

12 (2) *With respect to the Broadband Technology*
13 *Opportunities Program, the Inspector General of the*
14 *Department of Commerce.*

15 (3) *The Comptroller General of the United*
16 *States.*

17 **(c) CONGRESSIONAL NOTIFICATION.**—

18 (1) **IN GENERAL.**—*Not later than 3 days after*
19 *making a determination described in subsection*
20 *(a)(2), the Administrator or the Assistant Secretary*
21 *shall provide a notification of such determination*
22 *to—*

23 (A) *the Committee on Agriculture of the*
24 *House of Representatives and the Committee on*
25 *Agriculture of the Senate or the Committee on*

1 *Energy and Commerce of the House of Rep-*
2 *resentatives and the Committee on Commerce,*
3 *Science, and Transportation of the Senate, re-*
4 *spectively; and*

5 *(B) the official who provided the informa-*
6 *tion described in subsection (a).*

7 (2) *CONTENTS OF NOTIFICATION.*—*The notifica-*
8 *tion required by paragraph (1) shall include an ex-*
9 *planation of—*

10 *(A) the determination described in sub-*
11 *section (a)(2); and*

12 *(B) any action taken as a result of the de-*
13 *termination or why no action was necessary.*

14 (3) *CONFIDENTIAL NOTIFICATION UNDER CER-*
15 *TAIN CIRCUMSTANCES.*—*In the case of a determina-*
16 *tion by the Administrator or the Assistant Secretary*
17 *under subsection (a)(2) that cause does not exist to*
18 *terminate the award, the Administrator or the Assist-*
19 *ant Secretary may make the congressional notifica-*
20 *tion required by paragraph (1)(A) on a confidential*
21 *basis, if the Administrator or the Assistant Secretary*
22 *determines, after consultation with the official who*
23 *provided the information described in subsection (a),*
24 *that—*

1 (A) there is no merit to such information;
2 and
3 (B) notification on a public basis would
4 cause irreparable harm to any person the infor-
5 mation is regarding.

6 **SEC. 4. CONFORMING AMENDMENTS.**

7 Section 6001(i)(4) of the American Recovery and Re-
8 investment Act of 2009 (47 U.S.C. 1305(i)(4)) is amend-
9 ed—

10 (1) by striking “may” and inserting “shall”;
11 and

12 (2) by striking “, and award these funds com-
13 petitively to new or existing applicants consistent
14 with this section”.

15 **SEC. 5. AWARD DEFINED.**

16 In this Act, the term “award” includes grants and
17 loans.

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